

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

PHILIP MORRIS USA INC.,

Plaintiff,

v.

ALEX CHARLES GARROW III,  
individually and doing business as BIG  
BOY'S GAS & TOBACCO; LINDA  
ZAUN, individually and doing business as  
BIG BOY'S GAS & TOBACCO; and  
DOES ONE through TEN, inclusive,

Defendants.

Case No.: 13-cv-1549 (GTS)

**ECF CASE**

**STIPULATION AND ORDER**

WHEREAS, Plaintiff Philip Morris USA Inc. ("Philip Morris USA") has filed a Complaint against Defendants Alex Charles Garrow III and Linda Zaun ("Defendants") on December 16, 2013;

WHEREAS, on December 17, 2013 Philip Morris USA filed an *ex parte* Order to Show Cause an application for Preliminary Injunction; Temporary Restraining Order and Order Granting Expedited Discovery;

WHEREAS, on December 17, 2013 the Court granted the Temporary Restraining Order and ordered Defendants to show cause on December 23, 2013 at 10:00 a.m. why an order should not be entered, pursuant to Rule 65 of the Federal Rules of Civil Procedure, granting Philip Morris USA preliminary injunctive relief pending the final disposition of this action; and

WHEREAS Defendants consent to, and do not oppose, the entry of Philip Morris USA's proposed Preliminary Injunction.

NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED THAT:

Pending the final disposition of this action, Defendants and their agents, servants, employees and attorneys, and all those acting in concert of participation with them who receive actual notice of this Order by personal service or otherwise, are hereby ENJOINED and RESTRAINED from:

1. Purchasing, selling, offering for sale, or otherwise using in commerce any counterfeit MARLBORO® cigarettes and/or counterfeits of any other variety of MARLBORO® brand cigarettes; and
2. Assisting, aiding or abetting any other person or entity in purchasing, selling, offering for sale, or otherwise using in commerce any counterfeit MARLBORO® cigarettes and/or counterfeits of any other variety of MARLBORO® brand cigarettes.

**IT IS FURTHER ORDERED THAT** Plaintiff is authorized to commission purchases of MARLBORO® brand cigarettes from Defendants' retail store during the pendency of this action for the purpose of inspecting such cigarettes to determine whether they are genuine or counterfeit, and thus confirm whether Defendants are complying with this preliminary injunctions.

The hearing scheduled for December 23, 2013 at 10:00 a.m. is the above-captioned case is hereby taken off calendar.

Dated: December 23, 2013

Respectfully submitted,

HARRIS BEACH PLLC

By: /s/  
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By/s/ Mitchell J. Katz  
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IT IS SO ORDERED:

Glenn T. Suddaby  
Hon. Glenn T. Suddaby  
U.S. District Judge

Dated: December 23, 2013  
Syracuse, NY